



Attorney Docket 66743-7430

#9
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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NOVEMBER 26, 2002


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DEC - 5 2002

In re application of:
Khouri

TECHNOLOGY CENTER R3700

Serial No.: 09/818,812

Examiner Lacyk, John P.

Filed: March 27, 2001

Group Art Unit 3736

For: METHOD AND APPARATUS FOR
SOFT TISSUE ENHANCEMENT

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Assistant Commissioner for Patents
Washington, D.C. 20231

AMENDMENT AND RESPONSE A

The following remarks are made in response to the Office Action of Paper No. 7, dated August 28, 2002. In the Office Action, the claims were objected to because of informalities in their format. Following these Remarks, Applicant has provided a re-formatted version or "clean version" of the claims showing them in the form requested in the Office Action. The wording of the claims has not been altered in any way and the claims are as originally filed.

Applicant has amended the specification, and a substitute page 17 is included herewith.

Applicant has also included a substitute page for the Abstract as it appears that the Abstract was not included on its own separate page as required pursuant to 37 CFR §1.72(b).

Applicant respectfully requests reconsideration of the application in view of the following remarks.

Double Patenting

In the Office Action, claims 1-20 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Pat. No. 6,254,528, based on Application Serial No. 09/141,460. Reconsideration of this rejection is respectfully requested. U.S. Pat. No. 6,254,528 was withdrawn before issuance. Thus, a double-patenting rejection is not proper.

The Examiner is thanked for his courtesies extended during a telephone conversation with the undersigned on October 7, 2002, wherein the double patenting rejection was discussed and agreed to be revisited in view of the prosecution posture of App. Serial No. 09/141,460 at that time. Prosecution of App. Serial No. 09/141,460 was continued and a notice of allowance has since been issued in said application. Applicant may either traverse the double patenting rejection and/or file a terminal disclaimer if a double patenting rejection is formally entered in this application.

Interfering Subject Matter

Pursuant to 37 C.F.R. §1.607 and the Notice of Interfering Subject Matter filed by Applicant on March 27, 2002, Applicant respectfully requests an interference be declared with U.S. Pat. No. 6,042,537, issued March 28, 2002, to Kaiser (App. Serial No. 08/915,540, filed August 13, 1997).

CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that the application is in a condition for allowance and requests that the interference be declared.

Respectfully submitted,
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